

REMARKS

Claims 1–10 are pending in the application. In the Office action dated September 1, 2009, claims 1–10 were rejected. Responsive to the Office action, Applicant has amended claims 1 and 4.

In view of the amendments above, and the remarks below, Applicant respectfully requests reconsideration of the application under 37 C.F.R. § 1.111.

Rejections under 35 U.S.C. § 112

Claim 4 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, the Examiner asserts that it is unclear how the longitudinal and cross pieces can be lowered into the moulding substance without being hardened.

Applicant suggests that claim 4 distinctly defines the claimed subject matter. However, without acquiescing in the rejection and in the interest of facilitating prosecution of the claims, Applicant has amended steps iii), v), and vi) of claim 4 to specify that it is the moulding substance that is hardened. In view of the above amendments, Applicant respectfully suggests that claim 4 is both particular and distinct in reciting the claimed subject matter. Applicant therefore respectfully requests the withdrawal of the rejection of claim 4 under 35 U.S.C. § 112, second paragraph.

Rejections under 35 USC § 102

Claims 1–3 are rejected under 35 USC § 102(b) as being anticipated by Knox (U.S. Patent no. 3,133,853).

The Examiner contends that the Knox reference anticipates the subject matter of claim 1. Applicant respectfully disagrees.

Specifically, the Examiner asserts that Knox discloses a process for manufacturing a mattress comprising a bottom piece, longitudinal pieces, cross pieces, and a top piece. However, the Examiner has identified the bottom piece as the bottom half of the mattress of Fig. 3, the longitudinal pieces as the solid ribs running longitudinally between holes in Fig. 1, and the top piece as the top half of the mattress of Fig. 3. Despite the clear language of claim 1 that the recited pieces are joined using moulding substance at the contact area between the pieces, the Examiner asserts that portions of a single piece of polyurethane disclosed by Knox correspond to the individual pieces recited in the claim.

Applicant suggests that this corresponds to an improper construction of the scope of claim 1, as Knox necessarily fails to disclose joining individual pieces of the mattress where they are already portions of a single unitary object. However, in the interest of furthering the prosecution of the application, Applicants have amended claim 1 to more particularly recite that the mattress is manufactured from discrete pieces, including a bottom piece, longitudinal pieces, cross pieces, and a top piece, and that these discrete pieces are joined by applying the liquid moulding substance in the contact area between the pieces only.

Applicant suggests that the Knox reference fails to anticipate the process of claim 1 because it fails to disclose each and every element of claim 1, specifically a process where a mattress is manufactured from discrete pieces, including a bottom piece, longitudinal pieces, cross pieces, and a top piece, where those discrete pieces are joined by applying a liquid moulding substance in the contact area between the discrete pieces only.

In view of the above amendments and remarks, Applicants respectfully request the withdrawal of the rejection of claims 1–3 under 35 U.S.C. § 102.

Rejections under 35 U.S.C. § 103

Claims 4–10 are rejected under 35 USC § 103(a) as being unpatentable over Knox (U.S. Patent no. 3,133,853).

In order to establish the *prima facie* obviousness of a claim, the reference must disclose every element of that claim. Furthermore, there must be some guidance or suggestion in the prior art to modify the reference as suggested by the action.

The Examiner suggests that the Knox reference renders the method of claim 4 obvious because one of ordinary skill in the art would be motivated to cut the unitary upper and lower pieces of the Knox mattress into multiple separate pieces, including longitudinal and cross pieces, and then attach them together as recited in the claim. Applicant respectfully disagrees.

The claimed method typically uses separate sheets of polyurethane (see for example page 3, line 9), and in particular pre-cut sheets from large slabs in order to minimize the waste of either material or labor. For a mattress, typically 6 sheets are

used, and the resulting arrangement of pieces requires numerous joints to create a mattress enveloping the core in a stable and durable manner. The present method results in stronger and more durable joints, and yet does not require more joints than necessary.

The Knox reference teaches that a mattress is formed by cutting a polyurethane slab in two along a middle horizontal plane. There is no disclosure of further cutting to form separate side pieces, and distinct top and bottom pieces. Forming side pieces (longitudinal and cross pieces) from the mattress pieces of Knox would create a mattress structure having additional joints, resulting in a weaker mattress construction. Furthermore, the top and bottom halves of the mattress of Knox would have to be milled out to make room for the mattress core piece (as shown in instant figures) thereby creating a large volume of undesirable waste material. In addition, the walls (or half sides) of the two “open box” pieces would be cut out only to be immediately glued back together again, requiring additional labor, and again, resulting in an additional and unnecessary joint in the material.

As the Knox invention was clearly motivated by issues related to economy of manufacture (see for example col. 1, lines 31-36 of Knox), Applicant suggests that the Knox patent cannot serve to suggest a modification to the disclosed process that would create additional waste material, introduce additional complexity, and require additional labor.

The philosophy of construction of the mattresses of Knox is completely different from that of the present method, and the effects and properties of the two mattresses are not comparable. The methods have different purposes for processing the starting

materials and the end products are different. The present inventions concerns the construction of a mattress from 7 individual pieces, whereas Knox concerns enhancing a slab of polyurethane by inserting a more solid material into the slab.

Applicant suggests that the Knox reference fails to disclose each and every element of claim 4, as amended, and that furthermore the Knox reference fails to provide sufficient suggestion or motivation to modify the disclosed process for at least the reasons provided above. Applicant therefore respectfully suggests that the *prima facie* obviousness of claim 4 has not been established, and that the rejection of claims 4–10 under 35 U.S.C. § 103 be withdrawn.

Applicant believes that in view of the above amendments and remarks, the application is now in condition for allowance. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned agent of record.

CERTIFICATE OF E-FILING

I hereby certify that this correspondence is being transmitted electronically via U.S. Patent and Trademark Office EFS-Web System on January 29, 2010.

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Respectfully submitted,

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